

A meeting of the New Hampshire Water Well Board was held on April 21, 2005 at 9:30 am, in rooms 111 & 112, 29 Hazen Drive, Concord, NH, 03302.

Present were: Terrell Swain, Chairman

Rene Pelletier, Secretary

Board members: Bart Cushing, Jeffrey Tasker, Peter Caswell, and Christopher Covell

Staff: Rick Schofield and Genevieve Al-Egaily

Chairman Swain brought the meeting to order at 9:35 am and introduced members of the Board.

Approval of Minutes

Upon motion by Mr. Cushing and seconded by Mr. Pelletier, the Board unanimously voted to accept the Minutes of the February 2nd meeting.

Previous Complaints

Danny Brough / Robert Roy

Mr. Schofield reported that the complaint filed by Danny Brough, a licensed plumber, stated that Robert Roy owner and builder at 10 Eagle Ledge Road, Meredith, NH had installed a waterline to his tank and hotwired the pump for temporary service. Mr. Schofield provided an overview of the complaint and LOD that had been issued to Mr. Roy.

Department of Environmental Services ("DES") had issued an LOD in the Robert Roy Case stating that an old-style noncompliant well cap had been used, the electrical conduit was not secured to the cap, and the pump cable was lying on the ground and connected to the temporary service at the street. However, the LOD had been undeliverable until DES obtained a new address for Mr. Roy. The LOD had been received and Mr. Roy had stated that he would rectify the problems as soon as possible. However, he had just had heart surgery and would be unable to immediately go out to the site. He also stated that the cable should not have been hooked up to the temporary service and it must have been tampered with. Mr. Roy said that he would call the power company to have the cable disconnected from the temporary service and that he would replace the cap.

The town building code officer had been out to the site and had stated that the power was off. The hook up was a standard temporary hooked up and he did not have the authority to disconnect it.

A motion was brought by Mr. Pelletier and seconded by Mr. Covell to have Mr. Schofield inspect the site to insure that Mr. Roy had complied with the LOD by the May 1st deadline.

Citizens of Stewartstown / Landon Placey

Mr. Schofield reported that an LOD had been issued to Mr. Placey requiring water quality testing by May 1st and August 1st and to provide the Board with copies of the results. The LOD also required that a licensed pump installer and water well contractor inspect the well and any deficiencies be rectified. The water quality testing had been done by the state lab but Mr. Placey had not submitted the results to DES at the time of the meeting and the lab would not give a copy of the report to Mr. Schofield because the water quality test was considered to be proprietary.

An additional letter of complaint had been received by DES from people claiming to have stayed at the L & L Riverside Inn ("Inn") located at the intersection of Route 3 and Bishop Brook Road, Stewartstown, NH. The letter stated that the water smelled so bad that all of the guests had purchased bottled water to drink, they were also afraid to shower with the water. However, this was an anonymous complaint and DES does not respond to anonymous complaints.

Mr. Schofield reported that DES had received a response letter from Mr. Placey but Mr. Placey claimed that he did not send the letter. He alleged that the people who were trying to put him out of business sent the letter and they had done this because he was supporting a town warrant article to close a local road. Mr. Placey said that he had sent a copy of the letter to the local police department. Officer Gould of the Stewartstown Police Department requested copies of the materials and stated that they were going to investigate.

Mr. Pelletier stated that he would get a copy of the water quality report from the lab before the end of the meeting.

Mr. Swain stated that he was concerned that the LOD did not state what corrective actions the DES would take if the water quality tests showed problems. He felt that the well should be decommissioned and Mr. Placey should be required to have a new well installed by a licensed water well contractor.

The Board requested that Mr. Schofield call Mr. Placey and explain that due to health concerns the Inn was to be closed immediately. Mr. Schofield also needed to speak with the health officer about the situation and talk to the legal department about issuing an administrative order to close the L & L Riverside Inn until such time as a new well had been constructed.

Mr. Pelletier stated that he had installed a nonresidential well without a license and the Inn should be closed. Sarah Pillsbury was also to be notified about this case.

A copy of the water quality test results was obtained and it showed that the water had tested positive for total coliform bacteria.

The Board concluded that Mr. Schofield should check with the legal department and write a letter to Mr. Placey, that DES would enforce requiring that the Inn be closed and a licensed water well contractor decommission the well. The Board also requested that Mr. Schofield check with Subsurface on the design of the septic system that had been installed for the Inn.

Town of Pelham / Mr. Plumber Inc

Mr. Schofield reported that DES had fined Mr. Messineo for working without a license and the fine had been paid. The Town of Pelham had received the bill for \$6000 from the Young Brothers and had forwarded it to Mr. Messineo for payment. He had told the Town that he was not going to pay the bill until some issues were resolved. At a previous Board meeting, Mr. Messineo requested to be present while the work was being done. However, the Young Brothers had pulled the old pump two days prior to the meeting and were installing the new pump while the meeting was taking place. The Town had called Mr. Messineo after the meeting to let him know that the work was being done. However, by the time Mr. Messineo arrived, there was

approximately one hour of work remaining. Because of this, Mr. Messineo felt that the agreement had been made in bad faith and he was no longer willing to reimburse the Town for the work. Subsequently, the Town had requested and paid for copies of the tapes of the meeting. Mr. Schofield stated that he had believed that the complaint had been resolved so the file had been marked closed after the last meeting.

As a result of this case, Mr. Messineo had applied for a pump installer license which he was no longer interested in obtaining. However, if he reconsidered that decision his application could be considered by the Board when determining if the license should be granted.

Chairman Swain stated that he did not believe the agreement stipulated that Mr. Messineo had to be there while the work was being done. The issue was to make sure that the work was done by a licensed pump installer so the Board's part is done.

The Board agreed that its part in this matter was finished and unanimously voted to close the case.

Reporting:

LOD issued to Woodsome Well Drilling Inc.

Mr. Schofield reported that Mr. D'Amore, a home owner, had called requesting a copy of a Well Completion Report for a well drilled by Woodsome Well Drilling Inc. A search of the Board's records indicated that the report had not been submitted. Therefore, an LOD was issued to Danny Woodsome requesting a copy of the report within 14 days. Mr. Woodsome responded immediately by sending the report. He recently submitted some additional reports.

The Board determined that a letter should be sent to Mr. Woodsome putting him on notice that reports must be filed within 90 days of completion of the well and to request any additional reports that may not have been filed.

Upon motion by Mr. Covell and seconded by Mr. Pelletier the Board unanimously voted to send Mr. Woodsome the letter.

LOD Issued to Tri-State Drilling and Boring

Mr. Schofield reported that an LOD had been issued to Tri-State Drilling and Boring requesting five Well Completion Reports. Within five days of receipt of the letter, DES received 71 reports dated from June 1st through Dec. 29th 2004. Tri-State Drilling and Boring had not had violations of this type in the past. He further reported that many of the reports were lacking location information including address or tax map and parcel number or lot number. Mr. Schofield suggested that the Board consider sending Tri-State Drilling and Boring a letter stating that well location information was required.

Mr. Pelletier made a motion to have a letter sent requesting the location information and stating that future violations of this type would result in fines.

Mr. Cushing suggested that the motion be amended to request that the reports be completed properly and any additional reports be filed.

The Board voted unanimously to send Tri-State Drilling and Boring the amended letter.

Licensing

New applicants

The Board reviewed the new license applications received since the last meeting and determined that Michael Hoelzel, Rick Patenaude, Nathan Perkins, Gregory Roberts, and Andrew Stevens qualified to sit for the exam. Scott Hayes currently had only two references. However, Mr. Mackey stated that a third reference was coming.

The Board determined that David Fenno, applicant for a technical license, did not have the experience necessary to qualify for a licensed. Based on his work history filed with the application, the Board credited him with 1 1/2 years of well construction experience. The application was denied.

Mr. Mackey inquired if someone could come in and sit for the exam before the Board review his application.

The membership responded that they preferred to review applications prior to applicants sitting for the exam.

Continuing Education

Mr. Schofield reported that he and Roger Skillings had held the first continuing education class in Keene. At the previous meeting the Board requested the class include information about well disinfection. Currently a discrepancy exists between state codes for disinfection and Mr. Schofield requested guidance from the Board. He also requested the Board to consider drafting a generic disinfection notification form that could be given to customers notifying them that their well had been disinfected. The notification form would also contain information on the length of time recommended for disinfection.

Chairman Swain stated that he was concerned about the Board's staff giving their opinions to the public on how a well should be disinfected if the opinion differed from the Water Well Board's rules. We 602.03 requires contact time to be for four hours and that is how the industry has been educated. He also stated that requiring this notification would be interfering with how the industry conducted its business.

Mr. Schofield stated that the DES recommendation for disinfecting wells with bacteria problems was to disinfected with chlorine at a minimum concentration of 50 ppm for 12 to 24 hours, so when DES staff received call from the public, this was the recommendation that was given. However, if the public called because their well had not been disinfected by a driller, he would explain that the Board's rule We 602.03 required the well to be disinfected with chlorine at a minimum concentration of 50 ppm for four hours.

Mr. Pelletier and Mr. Covell suggested that circulation could be required in the rules if the Board did not feel that four hours was sufficient to disinfect a well.

Mr. Cushing felt the problem was that the industry was not disinfecting the wells at all and that in older high iron wells, four hours was not long enough. However, in new wells four hours was probably sufficient and expecting the industry to wait for four hours during the circulation was not going to happen.

Mr. Tasker pointed out that using higher concentrations of chlorine to disinfect wells would not help in the disinfection process. Increasing the concentration of chlorine would increase the pH and the higher the pH level of the water the less effective the chlorine becomes.

The Board concluded that the DES recommendations and the Water Well Board's rules should not be different. The message for the continuing education classes should be that wells should be disinfected with chlorine at a minimum concentration of 50 ppm for a minimum of four hours up to 24 hours. The public could then choose to flush their systems whenever they wished.

Elections:

Chairman Swain opened nominations for chairman. Upon motion by Mr. Tasker and seconded by Mr. Covell, Mr. Cushing was unanimously nominated for the position of Chairman.

Chairman Swain opened nominations for Secretary. Upon motion by Chairman Swain and seconded by Mr. Tasker, Mr. Pelletier was unanimously nominated for the position of Secretary.

Votes were cast by secret ballot and Mr. Schofield counted the votes. Mr. Cushing was unanimously elected as Chairman and Mr. Pelletier was unanimously elected as Secretary.

Rules

Mr. Schofield reported that the Water Supply Engineering Bureau was in the process of readopting their rules for the design standards for large public water systems. DES has proposed adopting the Water Well Board rules chapter We 600 for well construction standards and We 700 for pump installation standards. However, the 10 State Standards for well construction were more comprehensive and historically these were the rules that had been used. Mr. Schofield proposed that the Water Well Board consider adding a section to their rules for public water supply wells and within this section incorporate sections of the 10 State Standards so that the rules would be easy to reference.

Brandon Kernen addressed the Board and stated that currently the Source Water Protection program uses the Water Well Board rules section We 600 but the Large Systems program uses the 10 State Standards. He requested assistance in the form of a subcommittee to help integrate the 10 State Standards into the Water Well Board rules so that in the future only one set of rules would be used. The Water Supply rules expire this summer and the Board rules do not expire until 2008 so a provision would be put into the rules to allow for a waiver. Then when the Board's rules were updated they could be referenced.

Mr. Covell agreed to work with Mr. Kernan on integrating the rules and he requested that the Board review the results.

Maintenance and Repair of Pumps

At the previous meeting the membership agreed that a rule change was necessary to clarify a Board ruling made in 1992.

Mr. Schofield reported that in the case against Mr. Plumber, RSA 482-B:15 was the only section of the licensing law that Mr. Plumber could have been prosecuted under. This section did not allow him to do pump replacement work without a pump installer license based on the Board's 1992 ruling. However, the DES would no longer pursue an enforcement action for violations based solely on that ruling. Mr. Schofield suggested that the statutory language in RSA 482-B:15 clearly makes a distinction between maintenance and repair, versus replacement, and proposed that the Board amend We 302.03 so that pump replacement would be clearly excluded from maintenance and repair by rule. He also proposed that he or a member of the Board draft a rule for review.

Setbacks to State Highways

Mr. Schofield addressed the proposed amendment to We 602.05 Well Location suggesting that the Board add the following language:

(m) Wells shall be located a minimum of 50 feet from state highway rights-of-way, drainage ditches or drainage ditch easements.

(n) Wells shall not be located in areas adjacent to state highways that do not allowed or provide for adequate surface drainage.

Mr. Huntley from NH DOT noted drillers could find out the locations of state drainage ditches by calling the district offices. He knew of only two cases where undocumented drainage ditches were considered to be state drainage ditches.

Mr. Cushing stated his concerns about incorporating language relating to drainage ditches in the rules because they were hard to define.

Mr. Pelletier stated that they could not adopt only part of the RSA and that the Board should incorporate RSA 228:34 into the rules by reference. However, since (n) above was considered by the Board to be too vague the proposed language was struck. The drillers should then contact the DOT district offices to check on the locations of state highway right-of-ways, drainage ditches or drainage ditch easements and document what they were told by DOT. Non-conforming well location form would be required if a well must encroach onto these areas.

Setbacks to Property Lines

Mr. Schofield stated that there was a conflict between (Env-Ws 1008 and RSA 485-A: 30) and We 602.05 (h). The issue with Setbacks to Property Lines We 602.05(h) was whether or not a non-conforming well location form was required if the DES Subsurface Systems Bureau ("Subsurface") had approved the non-conforming well location. We 602.05(h) states "Wells shall be located a minimum of 75 feet from property boundaries for lots with design flows for

structures up to 5 bedrooms and in accordance with the provisions of RSA 485-A:30-b and Env-Ws 1008.05 et seq.” Even when Subsurface approves the location, a Non-conforming Well Location form should be required because this insures that the homeowner was aware that special methods of construction were required in that location to protect the well from contamination. The intent of subsurface’s setbacks are to protect a well from wastewater loading and not to protect a well from road runoff. By requiring a Non-conforming Well Location form, more casing would be required helping to protect the well. Currently, DES considers roads as undevelopable land that can be used as part of the protective well radius and a Standard Release form is not required.

Mr. Pelletier suggested incorporating the 75 ft. setback from state roads into the rule and require a release form if the 75 ft. setback was not met.

Mr. Tasker pointed out that towns do not pay for contamination so a Non-conforming Well Location form should not be necessary.

Chairman Swain stated that the drillers are responsible for filling out the Non-conforming Well Location forms, using special protection methods, and having homeowners sign the Non-conforming Well Location form.

The Board agreed that the issue would be resolved by requiring a Non-conforming Well Location form.

Special Methods of Construction

Mr. Schofield reported that the second part of this issue was the special methods of construction used in conjunction with the Non-conforming Well Location form. We 602.05 (j) states that “special methods of construction “may” include but are not limited to: (1) Installing no less than 40 feet of casing where bedrock is less than 20 feet from ground surface”. Mr. Schofield explained that as written, the rule was not mandatory. He believed it was the intent of the Board to make it mandatory. The membership agreed.

Mr. Covell felt that the rule should be more explicit and bedrock should be defined as “competent” bedrock.

Mr. Schofield then pointed out that No. 2 states “install casing deeper into solid bedrock”. The word “deeper” needed to be defined.

Mr. Pelletier suggested that 50 feet of casing should be installed and grouted.

Chairman Swain and Mr. Covell agreed that grouting should be required.

Mr. Pelletier then suggested that the casing depth should be shortened requiring a minimum of 40 feet of casing to be set into bedrock and then grout.

Mr. Schofield then stated that No. 3 was not necessary. The membership agreed.

Mr. Huntley from NH DOT

Mr. Huntley from DOT requested a clarification from the Board on rule We 604.04. Could tailings from a new drilled well be used to seal an abandoned dug well? Would the tailings be considered “clean” or would they be too silty so that they would cause turbidity in the new well?

Mr. Pelletier felt that the materials used to seal the well should be similar to the original materials that were removed when the well was dug. The tailings may be suitable for sealing the upper two feet of the well. However, sealing the well was intended to stop surface contamination.

Chairman Swain pointed out that the rule stated “clean and inorganic” so tailings would fit the rule. If there was concern about the risk of contaminating a sand and gravel aquifer, bentonite chips could be used.

The Board determined that tailings would be considered “clean”.

Old Business

Hydro-fracturing Forms

Mr. Schofield reported that the new Hydro-fracturing Form had been developed and now needed to be reviewed by the Board to insure that it included everything that would be pertinent to a well that was Hydro-fractured, surged, or developed. The form would become mandatory for Hydro-fracturing companies and would also be used by well drillers when they Hydro-fractured a well that they had not drilled.

Mr. Covell stated that recording how long the well had been surged and at what depth was important and should be included on form. He also suggested that the development information included on this form could be added to the Well Completion Report form.

Mr. Pelletier suggested that the form could be modified to incorporate the surging details by removing **Development Type** in No. 3 and adding Surged Depth. He then suggested placing No. 4 after No. 2 so that it became No. 3. He also suggested moving No. 12 down to No. 16 on the Well Completion Report and including No. 5, 6, and 7 from the new Hydro-fracturing Form on the back of the Well Completion Report. Then both forms would capture the same information.

Chairman Swain noted that yield PRIOR to development and yield AFTER development on the Well Completion Form could be placed on one line.

Nonconforming Well Location Form

Mr. Schofield reported that spaces had been added to the Non-conforming Well Location Form for the date and for the water well contractor’s license number. On the back of the form, a notice of the required setback from state highways had been added.

Mr. Covell suggested that a notice of the required setback from property lines also be added.

Mr. Pelletier suggested that the notice could state that the property was not large enough to allow for the 75 ft. setback from property lines.

The Board then determined that the property owner's signature should go on the back of the form.

Letterhead

Mr. Schofield reported that the new letterhead had been developed and was electronic so that changes could be made easily. He then presented two different letterheads for the Board members to choose from.

The Board determined that MGWC should be added after Mr. Tasker's name and that the title of chairman should appear before Mr. Cushing's name. The Board then chose the letterhead with the blue font.

New Business:

NGWA Exams

Mr. Caswell reported that a computer company had been set up at the Manchester Airport and was offering the National Groundwater Association's exams, the plumber's exams, and the state water well contractor and pump installer licensing exams. However, he had called to find out details about the exams and no one from the company had gotten back to him yet.

The Board determined that they would prefer to review applicant's qualifications before they were allowed to take the exam.

New Setbacks for UST

Mr. Schofield reported that the waste management division had adopted Env-Wm 1401.28 for minimum setbacks for UST's from wells and he felt that the Board should consider adopting these rules by reference.

Mr. Pelletier stated that the Board should adopt these rules because they were state requirement.

Most Common Installation Deficiencies

Mr. Schofield reported that on the electrician's web site, they post the most common installation deficiencies and this maybe something that could be included on the Board's web site.

Proposed Administrative Fine - David Bruce

Mr. Schofield reported that DES had issued a decision on a proposed administrative fine pursued by the program against David Bruce for the installation of two pumps without a license. As written in the decision, the program failed to prove by a preponderance of the evidence that Mr. Bruce committed the violations alleged in the notice of proposed administrative fine, and

accordingly, no fine was justified against Mr. Bruce. The evidence supported a finding that Mr. Fisher was directly responsible for the installation of the pumps.

The pump installation was originally for a pumping test on a community water system. However, the temporary installation of the pumps for the test was not done as a temporary installation but was installed as a final installation which required a pump installer license. We 302.03 (d) states “Pump installation which are not the primary means of withdrawing water from a well shall not be subject to the licensing provisions of these rules”.

The Board suggested that the rule should be clarified during the next rulemaking.

Upon motion by Mr. Caswell, seconded by Mr. Pelletier, the meeting was adjourned.

Rene Pelletier
Water Well Board Secretary